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Timothy Downs

E-filing

FILED  
09 SEP 25 PM 4:44  
RICHARD M. VIEKING  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO/OAKLAND DIVISION

Timothy Downs,

Plaintiff,

vs.

Check Recovery Services, Inc.; and DOES  
1-10, inclusive,

Defendants.

CV Case No.:

**4546**

**COMPLAINT FOR DAMAGES**  
**1. VIOLATION OF FAIR DEBT**  
**COLLECTION PRACTICES ACT,**  
**15 U.S.C. § 1692 ET. SEQ;**  
**2. VIOLATION OF FAIR DEBT**  
**COLLECTION PRACTICES ACT,**  
**CAL.CIV.CODE § 1788 ET. SEQ.**

**JURY TRIAL DEMANDED**

1 For this Complaint, the Plaintiff, Timothy Downs, by undersigned counsel, states as  
2 follows:  
3

4 JURISDICTION

5 1. This action arises out of Defendant's repeated violations of the Fair Debt  
6 Collections Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of Plaintiff's  
7 personal privacy by the Defendant and its agents in their illegal efforts to collect a  
8 consumer debt.  
9

10 2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that  
11 Defendant transacts business here and a substantial portion of the acts giving rise to  
12 this action occurred here.  
13

14 PARTIES

15 3. Plaintiff, Timothy Downs (hereafter "Plaintiff"), is an adult individual  
16 residing in Berkeley, California, and is a "consumer" as the term is defined by 15  
17 U.S.C. § 1692a(3).  
18

19 4. Defendant Check Recovery Services, Inc. (hereafter "Defendant"), is a  
20 New York corporation with an address of 167 Ashland Avenue, Buffalo, New York  
21 14222, operating as a collection agency, and is a "debt collector" as the term is  
22 defined by 15 U.S.C. § 1692a(6).  
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1           5.     The names of the DOE defendants and individual collectors are unknown  
2 but they will be added by amendment when determined through discovery.  
3

4                                   FACTUAL ALLEGATIONS

5           6.     Plaintiff incurred a financial obligation that was primarily for family,  
6 personal or household purposes, and which meets the definition of a “debt” under 15  
7 U.S.C. § 1692a(5).  
8

9           7.     Thereafter, the debt was purchased, assigned or transferred to Defendant  
10 for collection from Plaintiff.  
11

12           8.     The Defendant then began attempts to collect this debt from the Plaintiff,  
13 which was a “communication” as defined in 15 U.S.C. § 1692a(2).  
14

15           9.     The Plaintiff has no knowledge of the alleged debt.  
16

17           10.    The Defendant called the Plaintiff multiple times a day.  
18

19           11.    The Defendant falsely identified themselves as a attorneys.  
20

21           12.    The Defendant threatened to sue the Plaintiff.  
22

23           13.    The Defendant threatened to serve the Plaintiff with a summons at his  
24 place of employment.

25           14.    The Defendant informed the Plaintiff that they would increase the debt  
26 by \$6,000.00 when it sued the Plaintiff.  
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30. The Defendant falsely represented that a legal proceeding had been or was about to be instituted unless the debt was paid immediately, in violation of Cal. Civ. Code § 1788.13(j).

32. The Plaintiffs are entitled to damages as a result of the Defendant's violations.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

B Statutory damages of \$1,000.00 pursuant to 15 U.S.C.  
§1692k(a)(2)(A) against Defendant;

C Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendant.

D Actual damages pursuant to Cal. Civ. Code § 1788.30(a);

1 E Statutory damages of \$1,000.00 per violation for knowingly and  
2 willfully committing violations pursuant to Cal. Civ. Code §  
3 1788.30(b);  
4

5 F Actual damages from Defendant for the all damages including  
6 emotional distress suffered as a result of the intentional, reckless,  
7 and/or negligent FDCPA violations and intentional, reckless, and/or  
8 negligent invasions of privacy in an amount to be determined at trial  
9 for Plaintiff;  
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12 G Punitive damages; and

13 H Such other and further relief as may be just and proper.  
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**TRIAL BY JURY DEMANDED ON ALL COUNTS**  
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19 DATED: September 22, 2009

LARA SHAPIRO

20  
21 By: /s/ Lara R. Shapiro  
Lara R. Shapiro

22 Attorney for Plaintiff  
23 Timothy Downs  
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